Global Immigration alert

July 2026

United States

DHS publishes final rule rescinding the 2022 public charge ground of inadmissibility regulations

Executive summary

As of 18 September 2026, the 2022 public charge ground of inadmissibility regulations will no longer be in effect. The Department of Homeland Security (DHS) has rescinded these regulations for the stated purpose of removing narrow definitions and frameworks to empower officers to consider a broader range of public benefits and a greater scope of information when determining if an applicant is likely to become a public charge.

This final rule will apply to I-485 applications for adjustment of status (AOS) that are postmarked or electronically submitted as well as applications for admission to the United States made on or after the effective date. This rule also revises the breach and cancellation of public charge bonds regulations.

Background and analysis

The *Immigration and Nationality Act* (INA) provides that an applicant for a visa, admission to the United States, or AOS (a "green card") is inadmissible and may be denied the benefit they are requesting if they are likely to become a "public charge" at any time. The rescission of the 2022 regulations means that officers will shift their focus from an applicant's past or current receipt of certain public benefits to the totality of the evidence relating to applicants' self-sufficiency and reliance "on their own capabilities and the resources of their families, their sponsors, and private organizations."

Rather than relying on regulatory provisions, DHS will issue supplementary policy guidance to its officers and provide decision-making tools to guide these officers in making public charge inadmissibility determinations on an individual, case-by-case basis. Officers may consider:

- Factors such as the applicant's age, health, family status, financial resources, education, and skills
- Whether the applicant has received means-tested public benefits
- Any other relevant facts and circumstances specific to the applicant's case
- Available data or evidence related to the applicant's ability to support themselves financially

In the final rule, DHS is also amending the public charge bond rules to consider a bond submitted on or after 18 September 2026 to be breached if a foreign national receives any means-tested public benefit or fails to comply with any other conditions of their public charge bond. Additionally, DHS has limited the circumstances under which a public charge bond submitted by a foreign national may be cancelled.

Although the rule takes effect on 18 September 2026, DHS will consider an individual's receipt of public cash assistance for income maintenance and long-term institutionalization at government expense that occurred before the effective date. Receipt of means-tested public benefits will be considered only if received on or after 18 September 2026.

What this means

This change is expected to result in more rigorous assessments of self-sufficiency, potentially leading to a reduction in the number of foreign nationals who qualify for admission to the United States or adjustment of status if they are deemed likely to rely on public resources. Consequently, foreign nationals applying for a visa at a consular post abroad and I-485 applicants in the United States should prepare for broader officer discretion in making inadmissibility determinations. Applicants who have previously accessed public benefits such as Medicaid or Supplemental Nutrition Assistance Program, or who have limited financial resources, will be subject to increased scrutiny and should seek the guidance of an immigration professional.

USCIS will publish a revised Form I-485, Application to Register Permanent Residence or Adjust Status, and will issue guidance to assist officers in making totality of the circumstances determinations on or before 18 September 2026. Individuals who file for AOS as of this date must use the revised Form I-485. Applicants can expect inadmissibility determinations on public charge grounds to be based on information collected on a Foreign National's Form I-485; Form I-693, Report of Immigration Medical Examination and Vaccination Record; information from DHS systems; and any other information or evidence submitted or obtained during adjudication.

We will continue to monitor and share future developments. For additional information, or if you wish to discuss this further, please contact your EY Law LLP professional or Mehlman Jacobs LLP professional.

EY Law LLP

Batia Stein, Partner
+1 416 943 3593
batia.j.stein @ca.ey.com

Roxanne Israel, Partner
+1 403 206 5086
roxanne.n.israel@ca.ey.com

Marwah Serag, Partner
+1 416 943 2944
marwah.serag@ca.ey.com

Sheila Snyder, Partner
+1 604 899 3515
sheila.snyder@ca.ey.com

Melanie Bradshaw, Partner
+1 416 943 5411
melanie.bradshaw@ca.ey.com

Stephanie Lipstein, Partner
+1 514 879 2725
stephanie.lipstein@ca.ey.com

Mehlman Jacobs LLP

Sharon Mehlman, Partner
+1 858 404 9350
sharon.mehlman@mehlmanjacobs.com

Dilnaz A. Saleem, Partner
+1 713 750 1068
dilnaz.saleem@mehlmanjacobs.com

Author: Martika Yorke, Associate Attorney, Manager
+1 416 943 5250
martika.yorke@ca.ey.com

EYG no. 113450-26-GBL